



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

HD:hd

Docket No: 04661-98

28 February 2000

LTJG [REDACTED] USNR
[REDACTED]
[REDACTED]

Dear Lieutenant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 16 July, 3 and 18 August and 1 November 1999, copies of which are attached. The Board also considered your letter dated 12 December 1999.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the advisory opinion dated 16 July 1999. They were unable to find you were denied a fair opportunity to qualify as a surface warfare officer. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

21661-98

1610
PERS-311
16 July 1999

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: LTJG [REDACTED] 65

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the periods 26 May 1995 to 31 August 1995, 1 September 1995 to 29 February 1996, and removal of Non-Attainment of Surface Warfare Officer Qualification.

2. Based on our review of the material provided, we find the following:

a. A review of the member's digitized record revealed the reports in question to be on file. They are signed by the member acknowledging the contents of each and his right to submit a statement. The member indicated his desire to submit a statement for the report ending 31 August 1995. However, the statement has not been received by PERS-311.

b. [REDACTED] requests the removal of two fitness reports and removal of Non-Attainment of Surface Warfare Qualification. The fitness report for the period 26 May 1995 to 31 August 1995 is a Periodic/Regular report. The report is considered an adverse report as the member trend of performance was marked declining. The report is procedurally correct. The fitness report for the period 1 September 1995 to 19 February 1996 is a Periodic/Regular/Detachment of Individual report prepared upon the member's release from active duty.

c. A fitness report does not have to be consistent with previous or subsequent reports. It represents the judgment and appraisal responsibility of the reporting senior. However, where a significant change occurs between reports by the same reporting senior, the reporting senior should explain what prompted the change in evaluations. In this case, the reporting senior has made it clear why he issued a report for such a short period that showed a significant decline in performance.

d. On 12 February 1996 the member submitted a letter to the Inspector General regarding abuse of authority by the Commanding Officer USS PENSACOLA (LSD 38). A copy of the IG

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DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

4661-98

1610
PERS-61/077
3 Aug 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS

Via: Assistant for BCNR Matters, Pers-00ZCB

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF
LIEUTENANT JUNIOR [REDACTED] USNR
[REDACTED]

Ref: (a) BCNR PERS-00ZCB memo of 27 Jul 99
(b) OPNAVINST 5354.1D Navy EO Manual

Encl: (1) BCNR File 04661-98 w/Service record

1. Reference (a) recommended Pers-61 comment on physical abuse of a junior officer in the case of SNM. Per reference (b), physical abuse does not fall under the cognizance of Pers-61.
2. Enclosure (1) is returned without action.

[REDACTED]
Director, Professional
Relationships Division
(PERS-61)



4661-98

DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1611
Ser 834C/1342
18 Aug 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters, PERS-00ZCB

Subj: LTJG [REDACTED], USN [REDACTED]

Ref: (a) BCNR memo 5420 Pers-00ZCB of 3 Aug 99

Encl: (1) BCNR file 04661-98 w/Service Record

1. Reference (a) requested information concerning the removal of LTJG [REDACTED]'s fitness reports issued by a Commanding Officer with which [REDACTED] had professional difficulties. Enclosure (1) is returned as a matter under the purview of BCNR.

2. A search of PERS-834 historical files reveals no PERS-83 administrative actions taken against [REDACTED], his Commanding Officer, or [REDACTED] his Executive Officer. Accordingly, PERS-83 can make no comment or opinion relative to [REDACTED]'s petition.

[REDACTED]
Lieutenant Commander, U.S. Navy
Director, Officer Performance
Branch (PERS-834)



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

4661-98

Pers-41
01 NOV 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Via: Assistant for BCNR Matters, PERS-00ZCB

Subj: LTJG A [REDACTED], USNR [REDACTED] #65

Ref: (a) BCNR memo 5420 Pers-00ZCB of 24 August 1999
(b) OPNAVINST 1412.2G (Surface Warfare Officer Qualification and Designation)

Encl: (1) BCNR file 04661-98 with service record

1. Reference (a) requests PERS-41 provide a recommendation regarding the Surface Warfare Officer Non-Attainment (SWO-NON) status ico LTJG [REDACTED]

2. Upon review of enclosure (1) it is determined no administrative resolution, within the scope and authority of the Chief of Naval Personnel, is available to alleviate the necessity for further BCNR intervention.

3. The qualification process for achieving SWO designation as outlined in reference (b) paragraph 7.(a) reads "Only commanding officers of surface ships may qualify officers as SWO's upon completion of all requirements listed in paragraph 5." The instruction also directs commanding officers to submit a SWO non-attainment letter no later than 18 months after the officer reports on board. Since the commanding officer determined [REDACTED] is not capable of achieving the SWO qualification, he submitted the SWO non-attainment letter. PERS-41 does not have the authority to overrule commanding officers decisions regarding officer's qualifications [REDACTED]